

IN THE CIRCUIT AND SUPERIOR COURTS OF LAGRANGE COUNTY

In the Matter of LaGrange)
County Local Court Rules)

NOTICE OF PROPOSED NEW LOCAL RULES AND AMENDMENTS TO CURRENT RULES, REQUEST FOR SUPREME COURT APPROVAL, AND FINDING GOOD CAUSE TO DEVIATE FROM ESTABLISHED SCHEDULED

The judges of the LaGrange Circuit Court and LaGrange Superior Court give Notice under Trial Rule 81 (B), and find good cause under Trial Rule 81 (D) to deviate from the schedule established by the Division of State Court Administration for publishing local rules. The courts propose the adoption of a new rule implementing drug court and alcohol program fees at LR44-AR00-17, a new rule concerning the assignment of special judges in civil cases under Trial Rule 79 (H) at LR44-TR79-12, a new rule on caseload allocation at LR44-AR1-9, a new rule on notice and selection of jurors under Jury Rule 4 at LR44-JR4-16, and amendments to the current rule on assignment of special judges in criminal cases at LR44-CR2.2-11.

Supreme Court approval is requested for the rules relating to caseload allocation, special judge assignments in civil cases, and special judge assignments in criminal cases. All new language is shown by underlining and all deleted language is shown by ~~striking through~~.

Comments may be made on these proposals until August 14, 2010 to Hon. George E. Brown, LaGrange Superior Court, or Hon. J. Scott Vanderbeck, LaGrange Circuit Court 105 North Detroit Street, Lagrange, IN 46761, or by email at: gbrown@lagrangecounty.org or judgev@lagrangecounty.org.

The **effective date** for the changes and the new rule will be **August 15, 2010**.

DATED this 15th day of July, 2010.

_____/S/_____
George E. Brown, Judge
LaGrange Superior Court

_____/S/_____
J. Scott Vanderbeck, Judge
LaGrange Circuit Court

LR44-TR00-9- Case Assignment

~~A. All cases arising under Indiana code title 9, or in the instance of cases containing multiple counts, where any of the counts arises under the Indiana Code Title 9, shall be filed in the LaGrange Superior Court.~~

~~B. All cases arising under Indiana Code 35-46-1-5 shall be filed in the LaGrange Circuit Court.~~

~~C. All other criminal cases shall be filed first with the Clerk of the Court. The Clerk shall docket cases with each court by using a system of "lot" or random selection while ensuring that an equal division of the felony and misdemeanor cases exist between the Courts.~~

~~D. The Judges of the LaGrange Circuit and Superior Court shall meet during the months of July and January, of each year to review the caseloads of the Courts. They shall, at those meetings, make any transfer of cases which they deem necessary to provide for the more expeditious handling of cases in LaGrange County and to help to alleviate any disparity in the Courts' caseload.~~

~~Further, the Judges shall meet to discuss caseloads and make transfers at such other times as either Judge may deem necessary.~~

LR44-AR1-9 Caseload Allocation Plan

A. Criminal, Infraction and Ordinance Violation Cases

Criminal cases shall be filed pursuant to LR44-CR2.2-1. All infraction and ordinance violation cases shall be assigned to the Superior Court.

B. Probate and Related Cases

Estate, Guardianship, Adoption and Trust cases shall be assigned to the LaGrange Circuit Court.

C. Juvenile Cases

All juvenile cases, including paternity cases, shall be assigned to the LaGrange Circuit Court.

D. Small Claims Cases

All small claims cases shall be assigned to the LaGrange Superior Court.

E. Reciprocal Support Cases

All reciprocal support cases shall be assigned to the LaGrange Circuit Court.

F. All Other Civil Case Types

Cases other than those mentioned in the preceding paragraphs may be filed in either Circuit Court or Superior Court, at the discretion of the filing party. However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that Court to the other as allowed by statute, or rule of trial procedure, or to ensure an even distribution of judicial workload between the courts of record in the county.

G. Re-filed Cases

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

H. Caseload Review

The Judges of the LaGrange Circuit and Superior Court shall meet during the months of July and January, of each year to review the caseloads of the Courts. They shall, at those meetings, make and transfer of cases which they deem necessary to provide for the more expeditious handling of cases in LaGrange County and to help to alleviate any disparity in the Courts' caseload.

Further, the Judges shall meet to discuss caseloads and make transfers at such other times as either Judge may deem necessary.

LR44-CR2.2-10 Criminal Case Assignment

A. Initial Case Assignment.

(1) All cases arising under Indiana Code Title 9, or in the instance of cases containing multiple counts, where any of the counts arises under Indiana Code Title 9, shall be filed in the LaGrange Superior Court.

(2) All cases arising under Indiana Code 35-46-1-5 shall be filed in the LaGrange Circuit Court.

(3) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that case so as to avoid the conflict.

(4) All other criminal cases shall be filed first with the Clerk of the Court. The Clerk shall docket cases with each court by using a system of "lot" or random selection while ensuring that an equal division of the felony and misdemeanor cases exist between the Courts.

(5) In the event a cause is dismissed, it may later be re-filed in the same court.

LR44-CR2.2-11 Criminal Case Reassignment

A. Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted, or a disqualification or recusal is entered, the case shall be reassigned as follows:

(1) Circuit Court: When it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the LaGrange Circuit Court, the case shall be reassigned to the LaGrange Superior Court.

(2) Superior Court: When it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in the LaGrange Superior Court, the case shall be reassigned to the LaGrange Circuit Court.

(3) Alternative: In the event a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned in consecutive order to the following Judges: the regular Judge of the DeKalb Circuit Court; the regular Judge of the DeKalb Superior Court I; the regular Judge of the DeKalb Superior Court II; the regular Judge of the Steuben Circuit Court; the regular Judge of the Steuben Superior Court; the Steuben County Magistrate; the regular Judge of the Noble Circuit Court; the regular Judge of the Noble Superior Court Division 1; the regular Judge of the Noble Superior Court Division 2; the regular Judge of the Elkhart Circuit Court; the regular Judges of the Elkhart Superior Court Division 1 through 6; the Magistrates of Elkhart County; and, the Senior Judges eligible to serve in the LaGrange Circuit Court or the LaGrange Superior Court.

B. Pursuant to Ind. Criminal Rule 13(D), in the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

LR44-TR79-12 Special Judge Assignment in Civil Cases

(A) Cases involving a change of judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of the other presiding judge, or eligible senior judges, for LaGrange County. If a sufficient number of LaGrange County or senior judges do not exist, then a panel shall be named including the available LaGrange County judge and eligible senior judges, and judges or magistrates from counties within the Judicial Administrative District of which LaGrange County is a member, or are from a contiguous county and have agreed to serve as a special judge in the court where the case is pending.

If none of the above methods produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from counties within the Judicial Administrative District of which LaGrange County is a member.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

(B) Cases involving recusal or disqualification of a judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from counties within the Judicial Administrative District of which LaGrange County is a member.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

LR44-AR 15-~~11~~- 13 Court Reporters

LR44-AR 00-~~12~~- 14 Removal of files

LR44-FL 00-~~1~~- 15 Local Rules Relating to Dissolution of Marriage

LR44-JR 4-16 **Procedure for Summoning Jurors**

- (A) In accordance with Rule 4(b) of the Indiana Jury Rules, the Courts of LaGrange County hereby select the two tier notice and summons options, which permits the Jury Administrator to send the jury qualification form and notice first, and the summons to prospective jurors at least one week before service.
- (B) The Judges of the Courts of LaGrange County hereby appoint and designate the Clerk of the LaGrange Circuit Court to act as the Jury Administrator.
- (C) The Jury Administrator shall perform the duties prescribed under the Indiana Jury Rules.
- (D) The pool of jurors is to serve as a Jury pool for the Circuit and Superior Courts in LaGrange County.
- (E) As set forth in Rule 4, not later than seven (7) days after the date of drawing the names from the master list, the Jury Administrator shall mail to each person whose name is drawn a jury qualification form and a questionnaire to be completed by each prospective juror.
- (F) Further, as set forth in Rule 4, upon order of any Court, the Jury Administrator shall summon prospective jurors for service.

LR 44-AR00-17 **LaGrange County Court Drug And Alcohol Program-Schedule of Fees**

The following fees will be assessed for participants in the Alcohol and Drug Program:

<u>Program fee</u>	<u>\$350.00</u>
<u>Administrative fee</u>	<u>50.00</u>